

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SEAN SMITH, : 09 Civ. 8520 (PKC) (JCF)

Plaintiff, : REPORT AND  
: RECOMMENDATION

- against - :

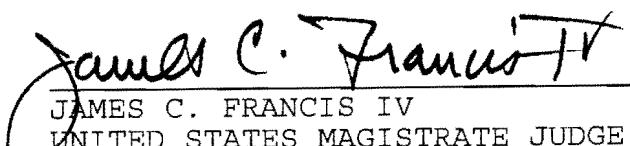
LT. R. WILSON #4465, DT. K. KELLY :  
#72819, :

Defendants. :

TO THE HONORABLE P. KEVIN CASTEL, U.S.D.J.:

The Second Amended Complaint in this action was filed on August 19, 2010, and service on the defendants was never effected. By letter dated February 17, 2011, I advised the plaintiff to submit within two weeks any reasons why the action should not be dismissed. I received no reply. I therefore recommend that the complaint be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(d) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable P. Kevin Castel, Room 2260, and to the chambers of the undersigned, Room 1960, 500 Pearl Street, New York, New York 10007. Failure to file timely objections will preclude appellate review.

Respectfully submitted,

  
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JAMES C. FRANCIS IV  
UNITED STATES MAGISTRATE JUDGE

USDS SDNY	DOCUMENT
ELECTRONICALLY FILED	DOC #:
DATE FILED: 3/4/11	

Dated: New York, New York  
March 4, 2010

Copies mailed this date to:

Sean Smith  
09-A-2818  
Fishkill Correctional Facility  
Box 1245  
Beacon, New York 12508